

## **REMARKS/ARGUMENTS**

### **Allowable Subject Matter**

The Applicant notes with appreciation this allowance of claims 1, 3-16, 24, 25, 31 and 32. Additionally, claims 26, 28, 30, 34, 36 and 38 are identified as allowable over the cited prior art, but objectionable since they are dependent upon a claim which the Examiner has rejected.

### **Claim Amendments Made Herein**

Claims 26, 28, 30, 34, 36 and 38 have been rewritten as independent claims and therefore those claims should now be in condition for allowance. In rewriting these claims in independent format, occasionally small editorial corrections were made. For example, in claim 30, GaInAsP/InP was rewritten with the P (first instance) capitalized since element abbreviations are normally capitalized (see the corresponding usage in claim 28, for example). It is respectfully submitted that these claims and the claims which have been amended to depend from one of those claims or which were previously dependent upon one of those claims, should now be in condition for allowance.

Independent claims 17, 29 and 33 are cancelled without prejudice.

With the entry of these amendments, all claims should now be allowable. This amendment may be entered to this time since it places the application into condition for allowance without necessitating another search of the prior art.

For the record, the Applicant does not agree, for example, with the Examiner's characterization of Waarts. The angle of Waarts' etalon 135 is adjustable, but those skilled in the art would hardly equate that the tunability. The angle of Waarts' etalon 135 is probably established by one or more set screws - the passband is set as shown in Fig. 2 of Waarts and that is the end of the matter. It is not adjusted further. Making it

electrically tunable would only add expense without any payback. Also, the tuning shown in Waarts' Fig. 2 is not vernier tuning. Vernier tuning is explained at paragraph 0051 of applicant's application as published 2005/0163171. Note the discussion of a lever-factor which increases the tuning range. There is no lever factor in Waarts. Waarts does not teach vernier tuning.

Reconsideration is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being  
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April 27, 2010  
(Date of Deposit)

Lonnie Louie  
(Name of Person Depositing)

/Lonnie Louie/  
(Signature)

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(Date)

Respectfully submitted,

/Richard P. Berg 28145/

Richard P. Berg  
Attorney for the Applicant  
Reg. No. 28,145  
LADAS & PARRY  
5670 Wilshire Boulevard,  
Suite 2100  
Los Angeles, California 90036  
(323) 934-2300 voice  
(323) 934-0202 facsimile